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August 12, 2011

## **M E M O R A N D U M**

**TO:** Colorado Licensed Deferred Deposit Lenders

**FROM:** Mary C. Geesling, Supervising Credit Examiner  
Colorado Uniform Consumer Credit Code  
(303) 866-4494  
E-mail: [uccc@state.co.us](mailto:uccc@state.co.us)

**RE:** Refunds of Origination/Acquisition Fees Upon Prepayment of a Payday Loan

In December 2010, a lawsuit (Stonepride Financial Corporation v. Suthers, 2010CV9992) was filed in Denver District Court challenging our interpretation of § 5-3.1-105 C.R.S. and whether the origination/acquisition fee is refundable upon prepayment of a payday loan. On August 4, 2011, the court ruled that § 5-3.1-105, C.R.S. requires a refund of a pro-rata portion of the origination/acquisition fee upon prepayment of the loan. In addition, the court found Uniform Consumer Credit Code Rule 17(I)(2) to be valid. A copy of this Order may be obtained under the "Payday Loan Compliance Information" section on our website:  
[www.coloradoattorneygeneral.gov/uccc](http://www.coloradoattorneygeneral.gov/uccc).

On January 28, 2011 the UCCC Administrator sent a memorandum to all licensed payday lenders offering (if they agreed to certain terms) the option of depositing the required refund of the pro-rata portion of the origination/acquisition fee upon prepayment into an escrow account while the lawsuit was pending. Those lenders who did not enter into an escrow agreement with the Administrator, were expected to make all required refunds of the origination/acquisition fee directly to the consumer.

Given the resolution of this lawsuit, the Administrator is now ordering lenders that have not previously done so to make all required refunds of the origination/acquisition fee directly to the affected consumers. Pursuant to § 5-3.1-105, C.R.S., payday lenders are required to refund a pro-rata portion of the origination/acquisition fee on all payday loans prepaid prior to their scheduled maturity date from September 1, 2010 forward. **All required refunds must be made by September 12, 2011.**

Please provide confirmation of refunds by providing our office with a list of refunds made for each master and branch location. Each list (alphabetical by consumer's last name) should include the consumer's full name and current address, loan origination date, original loan amount, original maturity date, prepayment date and the amount of the refund given. Each list should include the total dollar amount of all refunds made. These lists may be in written or electronic form. **Please provide the lists of all refunds made by September 19, 2011.**

Should you have any additional questions regarding this issue, please do not hesitate to contact me at the number listed above.